

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 24, 2011

In the Matter of TOLEDO/SALLIE, Minors.

No. 300845

Kent Circuit Court

Family Division

LC Nos. 09-051365-NA

09-051366-NA

Before: HOEKSTRA, P.J., and MURRAY and M. J. KELLY, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor children following her voluntary release of those rights. See MCL 710.29(7). On appeal, respondent argues that her release was coerced and not made with full knowledge of the implications of her consent. Her basis for this contention is that she expressed doubt about whether her consent was in her children's best interests. Respondent further argues that it was also not clear from the record that she understood that there was no guarantee that a mandatory initial termination petition would not be brought for her unborn child. We conclude that there were no errors warranting relief and, for that reason, affirm.

Respondent did not follow the procedure for seeking revocation of her release. See MCL 710.29(10). Therefore, our review of this issue is for plain error. See *In re Hudson*, 483 Mich 928, 928 (2009) (noting that, in termination cases, this Court reviews unpreserved claims of error for plain error affecting the appellant's substantial rights).

A parent's decision to release his or her parental rights must be knowingly and voluntarily made. *In re Burns*, 236 Mich App 291, 292; 599 NW2d 783 (1999). Here, the trial court informed respondent of her right to a hearing and of the petitioner's burden at that hearing, inquired whether any promises had been made to her in exchange for her release of rights, and informed her of the finality of her decision. Respondent answered that she understood all of these rights. When respondent hesitated about the release being in her children's best interests and stated that she was releasing her parental rights so that she could have the "chance" to raise her unborn child, the trial court informed her that she was correct that a voluntary termination did not lead to a mandatory petition to terminate her parental rights to her unborn child. Nevertheless, the trial court made it clear that she needed to base her decision on the totality of the circumstances, and not just that factor:

But the bottom line on my question about whether you believe it's in your child's best interest—or children's best interest—really is have you balanced all of the factors that are out there and are you comfortable? Not, is this easy? Not, are you happy? But are you comfortable with the decision that you're making today?

After speaking with her attorney off the record, respondent stated that she was comfortable with her decision to release her parental rights. Further, her attorney stated on the record that respondent understood that petitioner would not bring an initial petition to terminate her parental rights to her unborn child solely on the basis of her release but could still petition for termination of her parental rights to that child “if the child was born with substance abuse or something of that nature.” Thereafter, as noted on the record, respondent signed a document agreeing that she could not “provide a safe, stable, non-neglectful home environment for her minor children,” that she would “be unable to do so within a reasonable amount of time,” and that “the best interests of her minor children would best be served through termination of her parental rights.”

On this record, we cannot conclude that respondent's release was not voluntarily and knowingly made. Therefore, there was no plain error warranting relief.

Respondent also argues that petitioner did not establish the statutory grounds for termination or that termination of her parental rights was in the children's best interests. However, under the facts of this case, petitioner was not required to prove a statutory ground for termination before the trial court could enter an order terminating respondent's parental rights. Once respondent knowingly and voluntarily released her parental rights to the minor children, the trial court was required to enter an order terminating her parental rights. MCL 710.29(7); *In re Buckingham*, 141 Mich App 828, 835; 368 NW2d 888 (1985).

There were no errors warranting relief.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Christopher M. Murray
/s/ Michael J. Kelly